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OFFICE OF PETITIONS

Applicant: Terui et al.
Appl. No.: 09/985,737
Filing Date: November 6, 2001
Title: ELECTRON GUN AND A METHOD FOR USING THE SAME
Attorney Docket No.: 215891US-2
Pub. No.: US 2003/0085645 A1
Pub. Date: May 8, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on July 8, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication incorrectly printed the phrase "the apex angle of the tip portion of the electron emission cathode is 50-1000" instead of "the apex angle of the tip portion of the electron emission cathode is 50-100°" in paragraph 0008 and dependent claim 3.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹ The instant request does not identify a material mistake in the publication made by the Office:

The error in the phrase "the apex angle of the tip portion of the electron emission cathode is 50-1000" instead of "the apex angle of the tip portion of the electron emission cathode is 50-100°" in paragraph 0008 and dependent claim 3 is an Office error, but it is a minor typographical error which is clearly understandable from reading the sentence and/or paragraph in which the term is used, as terms are not read in a vacuum. The phrase is written correctly at several other locations in the specification and since it is not possible for the angle to go to 1000, it is clearly a typographical error, which is clearly understandable from reading the specification and claims, as words are not read in a vacuum. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The error in claim 6, is not an Office error, as claim 6 states "50 -100° C", which accurately depicts the text as originally filed and thus it is not eligible to be corrected by a corrected publication.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

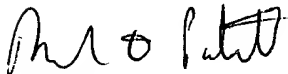
Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
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 P.O. Box 1450
 Alexandria, VA 22313-1450

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 2879 to await further examination in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).



Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy